

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROBINETTE LONG,

Plaintiff,

v.

Case No. 13-cv-0380 RB/SMV

**EASTERN NEW MEXICO UNIVERSITY
BOARD OF REGENTS, LEE QUICK,
KATHY KNOLL, JULIE GAWEHN,
JANE BLAKELEY, and SCOTT SMART,**

Defendants.

**ORDER DENYING WITHOUT PREJUDICE
PLAINTIFF'S FIRST TO COMPEL DEFENDANT ENMU**

THIS MATTER is before the Court on Plaintiff's First Motion to Compel Defendant ENMU [Doc. 47] ("Motion"), filed on March 31, 2014. Defendants responded on April 14, 2014. [Doc. 53]. Plaintiff filed no reply, and the time for doing so has passed. The Court finds that Plaintiff's counsel failed to confer in good faith with Defendants' counsel prior to filing the Motion. Accordingly, the Motion will be denied without prejudice for re-filing within 15 days from the date of this order.

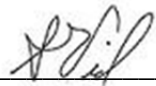
Federal Rule of Civil Procedure 37 allows a party to move to compel disclosure or discovery. However, the Rule expressly requires that the movant certify that she "has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action." Fed. R. Civ. P. 37(a)(1).

Here, Plaintiff filed her Motion, moving to compel supplemental responses to 26 interrogatories. [Doc. 47]. Defendants respond that Plaintiff failed to confer with them as

required by Rule 37. [Doc. 53] at 4. Defendants allege that at 9:21 p.m. on Sunday, March 30, 2014, Plaintiff's counsel cancelled the meeting planned for the following morning—March 31, 2014—and indicated that the parties would have a phone conference that afternoon instead. *Id.* at 6. They further allege that Plaintiff's counsel never contacted them. *Id.* Instead, Defendants assert that they were first provided with Plaintiff's discovery concerns via email at 8:08 p.m. *Id.* According to the Court's electronic records, Plaintiff's Motion was filed on 10:59 p.m. the same night. Defendants posit that had there been a meet and confer session some of the issues in the Motion would have been resolved. [Doc. 53] at 6–7. Plaintiff did not reply and has not denied any of these allegations. Therefore, the Court finds that Plaintiff failed to confer in good faith as required by Rule 37 and will deny the Motion.

IT IS THEREFORE ORDERED that Plaintiff's First Motion to Compel Defendant ENMU [Doc. 47] is **DENIED without prejudice** for re-filing within 15 days from the date of this order. Plaintiff may re-file the motion if any grounds for doing so remain after the parties have conferred in good faith.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge